

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JENSEN AUTO, INC.,

Plaintiff, No. 11-13438

vs. Hon. Gerald E. Rosen

FOUR SEASONS ITALY, S.P.A.,

Defendant.

/

**ORDER DISMISSING PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT, WITHOUT PREJUDICE**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on March 08, 2013

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

On May 4, 2012, Plaintiff filed a Motion for entry of a Default Judgment against Defendant Four Seasons Italy, S.P.A. The matter was scheduled for hearing on June 19, 2012. Counsel for Plaintiff appeared at that hearing and at that time informed the Court that Defendant had not yet been served with copies of the Clerk's Entry of Default or the Motion for Default Judgment because of the difficulty presented with serving a foreign corporation. Upon counsel's representation that he would have Defendant served within 90 days, the Court adjourned the hearing and Re-Noticed the hearing for September 14, 2012.

Counsel thereafter contacted the Court and requested that the re-noticed hearing be adjourned until October. Accordingly, the Court re-scheduled the hearing for October 10, 2012. On October 9, 2012, counsel again contacted the Court and advised that Defendant had agreed to pay its indebtedness to Plaintiff and that once he was assured that Defendant made the payments as promised, he would withdraw the motion. Therefore, Plaintiff's counsel once again asked that the hearing on the Motion for Default Judgment be adjourned with the understanding that the matter would be resolved by the end of the year. The Court adjourned the matter without date.

When Court had not heard from Plaintiff by the end of the year, on January 22, 2013, the Court contacted Plaintiff's counsel who once again asked the Court's indulgence, and requested a hearing on the Motion for Default not be scheduled for another 60 days because

I need to serve Notice to [an] Italian entity which requires translations, mailing to an embassy and return of the proof. I can get that all done, but waiting for the proof takes some time.

Accordingly, the Court re-noticed the hearing on the Motion for Default for March 27, 2013.

However, on March 7, 2013, once again Plaintiff's attorney, Allen Francis, e-mailed the Court requesting that the hearing be adjourned for another 60 days, giving as the reason for his request, essentially the same reason he gave in January:

I had to find a new translator and was just able to do so. The documents need to be translated and served in Italy. The service process, actually the

receipt of proof of service, can take 45 days.

Given the repeated requests for adjournment, the Court finds that, in the interest of docket efficiency, it would be best if the Court dismissed the pending motion, without prejudice. Plaintiff may re-file the motion after he notifies the Court that Italian translations of the documents are complete. The Court will then schedule the Motion for hearing accordingly.

Counsel is admonished that the Court will not keep this matter open *ad infinitum* and if service upon Defendant is not promptly done, the Court will dismiss Plaintiff's Complaint for failure to prosecute.

For the foregoing reasons,

IT IS HEREBY ORDERED that Plaintiff's Motion for Default Judgment [**Dkt. # 5**] is dismissed, without prejudice to Plaintiff's right to re-file the motion as provided in this Order.

S/Gerald E. Rosen
Chief Judge, United States District Court

Dated: March 8, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 8, 2013, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5135